

***United States Court of Appeals  
for the Second Circuit***



**APPELLEE'S  
APPENDIX**





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pgs

# 75-1251

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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UNITED STATES OF AMERICA, APPELLEE

v.

BERNARD TOLKOW, APPELLANT

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ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE EASTERN DISTRICT OF NEW YORK

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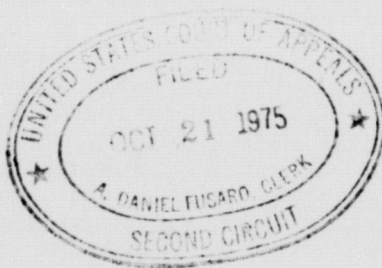
APPENDIX FOR APPELLEE

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# I N D E X

	Page
Direct Testimony of Robert W. Wendell on March 24, 1975 -----	1
Direct and Cross-examination of Herbert and Rhoda Kadison on April 1, 1975 -----	5
Direct Testimony of Murray Portnoy on April 7, 1975 -----	41
Pages from G. Ex. 2, Annual Report (Form D-2) for year ending December 31, 1969, submitted by the United Welfare Fund, Amalgamated Local Union 355 -----	71
Pages from G. Ex. 3, Annual Report (Form D-2) for year ending December 31, 1970, submitted by the United Welfare Fund, Amalgamated Local Union 355 -----	74
Pages from G. Ex. 4, Annual Report (Form D-2) for year ending April 30, 1971, submitted by the United Welfare Fund, Amalgamated Local Union 355 -----	77
Pages from G. Ex. 5, Annual Report (Form D-2) for year ending April 30, 1972, submitted by the United Welfare Fund, Amalgamated Local Union 355 -----	80

DIRECT TESTIMONY OF ROBERT W. WENDELL  
ON MARCH 24, 1975

18           A       We discussed the possibility if Mr. Tolkow  
19           knew anybody or any group of men that would be interested in  
20           putting money into the business.  
21           Q       What business was that?  
22           A       Salonga Homes, Salonga Properties. Anything  
23           we owned.  
24           Q       What did Mr. Tolkow say about that?  
25           A       Mr. Tolkow said that he had given it some



Wendell-direct

thought because Al Fassnacht had called him previous to this meeting to ask him that over the phone. That was the reason we were meeting there. He said that he thought he had a group of men, businessmen, that would be interested in putting money in and we discussed exactly what we had in mind.

Q Was a figure mentioned?

A (No response.)

Q Amount of dollars?

A After the conversation there was a figure mentioned of \$100,000.

Q What else, if anything, did Mr. Tolchow say, if you recall?

A The \$100,000 and the men would have 50 percent interest -- and anything we owned, and if there is anything that we built in the future.

(continued next page)

JB

Wendell-direct

JB:jm  
IX  
T2pmR1  
BY MR. SHANLEY:

Q Anything else that you can recall?

A After it was, let's say, okayed, we agreed to that. It was decided that the monies would be put into a corporation that wasn't dealing with the united welfare fund security division.

Q Who brought that up?

A Mr. Tolkow. And said that he didn't want his name with these men connected in any way, shape or form because it was their business.

Q You testified, I think, that it was decided that money had to go into a company that hadn't done business with the fund?

A Yes.

Q Well, that's -- who brought that up?

A Mr. Tolkow brought that up.

Q Was there a name -- was there any name suggested for this investment?

A Yes. Brightwaters Associates, Inc. had never done business with the united welfare fund.

Q The fund or the security division?

A Fund, security division.

Q And what, if anything, did Mr. Tolkow say when that name was brought up?



Wendell-direct

1  
2 A That's fine.

3 Q Was there any discussion at that time about a  
4 timetable for payments?

5 A The monies would be coming in the near future,  
6 within a matter of a few weeks.

7 Q Who, if anybody, would be turning the money  
8 over?

9 A Mr. Tolkow would turn the money over to us  
10 from these gentlemen.



DIRECT AND CROSS-EXAMINATION OF HERBERT AND  
RHODA KADISON ON APRIL 1, 1975

6 H E R B E R T K A D I S O N , having been first duly sworn,  
7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. SHANLEY:

10 Q Mr. Kadison, what is your occupation?

11 A I am an accountant.

12 Q And how long have you been an accountant?

13 A For about 30 years.

14 Q Did you go to college?

15 A Yes.

16 Q Where did you go to college?

17 A City College.

18 Q And did you pursue a Master's degree anyplace?

19 A I got a Master's degree at New York University.

20 Q And are you a Certified Public Accountant?

21 A Yes.

22 Q Are you married, sir?

23 A Yes.

24 Q Do you know the defendant Bernard Tolkow?

25 A Yes.

Kadison-direct

1 Q Are you related to him in any way?

2 A Yes, sir.

3 Q What is that relationship?

4 A He's my wife's brother-in-law.

5 Q How long have you been married?

6 A I am married 30 years.

7 Q And how long have you known Mr. Tolkow?

8 A About 25 years.

9 Q Directing your attention to the year 1969,  
10 Mr. Kadison, what was your occupation during that year?

11 A I was an accountant.

12 Q Do you know a man by the name of Robert Wendell?

13 A No.

14 Q Do you know a man by the name of Al Fassnacht?

15 A No.

16 Q Have you ever met Mr. Fassnacht?

17 A No.

18 Q Directing your attention to the year 1969, did  
19 you have any conversations with anybody about Mr. Wendell or  
20 Mr. Fassnacht?

21 A I don't believe so.

22 Q Are you familiar with a company by the name  
23 of Brightwaters Associates?

24 A No.



Kadison-direct

1  
2 Q Do you know a company by the name of Salonga  
3 Homes, Inc.?

4 A No.

5 Q Do you know a company by the name of Salonga  
6 Property, Inc.?

7 A No.

8 Q With regard to those three companies, did you  
9 ever invest any money in those companies?

10 A No.

11 Q I hand you Government's Exhibit 72 in Evidence,  
12 will you read the name on that check.

13 A The payee is to myself.

14 Q And what is the date of that check?

15 A It looks like August 11, 1970. I think the  
16 year is 1970.

17 Q Directing your attention to that period of time,  
18 August 11, 1970, did you see that check at any time around  
19 that period?

20 A I don't recall ever seeing that check.

21 Q Will you look at the endorsement on the back.  
22 What name is written there?

23 A The name of Herbert Kadison.

24 Q Is that your signature?

25 A No.

1  
2 Q Who is the signatory on the face of this check,  
3 if you can make out that signature?

4 A The last name looks like Weidell.

5 Q And what is the letterhead, so to speak, on the  
6 top of the check?

7 A The title says Salonga Homes, Inc.

8 Q What permission, if any, did you give to any-  
9 body to sign your name on that check?

10 A I don't remember explicitly giving any permis-  
11 sion. I don't recall ever seeing this before it was shown to  
12 me.

13 Q It was shown to you where?

14 A About a year ago.

15 Q It was shown to you by whom?

16 A By an attorney, a U.S. Attorney.

17 Q I hand you Government's Exhibit 75, will you  
18 read the payee on that check.

19 A Herbert Kadison, myself.

20 Q And how much is that for?

21 A \$2,000.

22 Q By the way, on the check that you looked at  
23 before, which is Government's Exhibit 72, how much is that  
24 check for?

25 A That's for \$3,000.



Kadison-direct

1  
2 Q Look at the endorsement on the back. Is there  
3 a name written on the back?

4 A It's endorsed with my name.

5 Q Is that your signature?

6 A No.

7 Q Will you read the rest of that endorsement under  
8 that.

9 A Paid to the order of Flushing National Bank,  
10 Bernard Tolkow.

11 Q Are you familiar with Mr. Tolkow's handwriting?

12 A Partly; yes.

13 Q That signature -- you recognize that signature,  
14 Mr. Bernard Tolkow's signature?

15 A I believe that is his signature.

16 Q Who, if anybody did you authorize to sign your  
17 name to that check?

18 A I don't recall authorizing anybody at that time.

19 Q I hand you Government's Exhibit 56, will you  
20 read that.

21 A Dated April 11, 1969, received from Herbert  
22 Kadison, the sum of \$5,000 on this date for purchase of land.

23 Q And who is that signed by?

24 A It looks like Alfred -- I don't know what the  
25 next name is -- Alfred P. somebody.

Kadison-direct

1  
2 Q Do you recall the first time you saw that  
3 receipt, that exhibit?

4 A No. I don't recall seeing this.

5 Q Did you see it in 1969?

6 A No.

7 Q What is the sum listed on that?

8 A \$5,000.

9 Q To whom, if anybody, did you give a sum of  
10 \$5,000 on or about that day?

11 A Nobody.

12 Q Mr. Kadison, I show you Government's Exhibit 63  
13 in Evidence. Will you read that.

14 A That say's, after date, "I promise to pay to the  
15 order of Herbert Kadison, \$5,000, payable" at blank, and  
16 it's dated May 15, 1969, and the signature apparently is  
17 Wendell.

18 Q What, if any financial arrangements did you  
19 enter into with Mr. Wendell on or about that time?

20 A None.

21 Q Do you recall the first time you saw that  
22 Exhibit No. 63?

23 A No. I don't recall seeing the exhibits.

24 Q There came a time when you did see them, though;  
25 is that correct?



Kadison-direct

1

A These specific ones I don't recall seeing.

2

3

Q I show you Government's Exhibit 64, will you

4

read that.

5

A Received from Herbert Kadison, 5 -- \$5,000.

6

There is no date on it.

7

Q Is there a signature on that?

8

A It appears to be Wendell, I think.

9

Q Directing your attention to the year 1969,

10

did you invest -- what monies, if any, did you invest in

11

real estate?

12

A Nothing in connection with this. I may have

13

made my own investment in a completely different area. I

14

don't remember what year, but I do have investments in real

15

estate.

16

Q What, if any conversation did you have with

17

Mr. Tolkow in the year 1969 about investing in real estate,

18

this real estate?

19

A I don't recall any conversations.

20

Q You don't recall. Were there any conversations?

21

A There may have been, but I don't recall.

22

Q What business ventures, if any, did you go into

23

with Mr. Tolkow in the year 1969?

24

A I don't recall any.

25

Q Did there come a time, Mr. Kadison, that you

Kadison-direct

1  
2 received mail at your house with regard to real estate --  
3 perhaps I am not phrasing my question right. I'll rephrase  
4 the question.

5 I hand you Government's Exhibit 93, and ask you if you  
6 recognize a signature on that.

7 A This apparently is my signature.

8 Q What is the date on that?

9 A March 22nd, 1971.

10 Q Did you sign that document?

11 A Yes, I would say I did.

12 Q Who, if anybody, presented that document to you  
13 to sign?

14 A I don't remember.

15 Q Was it Mr. Wendell?

16 A No. I never met him.

17 Q Was it Mr. Getchner?

18 A No; at that point he was dead.

19 Q Was it your wife?

20 A It might have been. It might have been  
21 Mr. Tolkow. I don't remember the occasion.

22 Q But was there any conversation you can recall  
23 between yourself and Mr. Tolkow about this particular document?

24 A I probably asked what it was all about, and I  
25 was told that I should sign it, that it had to do with



Kadison-direct

transferring some property.

Q And who told you that?

A It was somebody, either my wife, or Mr. Tolkow.

Q What, if anything did you say?

A I probably said if that's all it is, then I'll sign it.

Q What explanations were given to you of signing this, if you can recall?

A This had to do with some transaction that somebody was involved with that I knew nothing about, and I was content to sign it and have everything ended.

Q I show you Government's Exhibit 94 in Evidence. Do you recognize the signature on that?

A Yes, one of those signatures is my signature.

Q What is the date of that document?

A This is October 6, 1971.

Q Do you recall the circumstances of your signing that particular document?

A No, I don't.

Q Do you recall whether or not you had a conversation with anybody about signing that?

A I don't recall the conversation. There had to be a conversation, I am sure.

Q I show you Government's Exhibit 98 and 99, which

Kadison-direct

1  
2 are in evidence, do you recognize those two checks?

3 A I recognize them. I believe I remember them.

4 Q Whose signature is on the back of those checks?

5 A This is in my handwriting, endorsing my wife's  
6 name.

7 Q And how much are those checks for?

8 A Two checks for \$6,000 each.

9 Q Who, if anybody, did you talk to about those  
10 checks?

11 A I spoke to my wife, Mr. Tolkow and Mrs. Tolkow.

12 Q And were you all together in a room?

13 A Yes.

14 Q And what did Mr. Tolkow say, if you can recall?

15 A I don't recall the conversation.

16 Q Did you deposit those monies?

17 A Yes, I did.

18 Q And what, if anything did you do when you  
19 deposited the money?

20 A As I remember, I then gave my own check drawn  
21 on this bank to Mr. Tolkow and it was for \$10,000.

22 MR. SHANLEY: I have no further questions,

23 Mr. Kadison.

24 You may inquire.

25 (Continued on next page.)



CROSS-EXAMINATION

BY MR. WATKINS:

Q Good morning, Mr. Kadison.

A Good morning.

Q You testified here this morning that you are related to Mr. Tolkow, you are his brother-in-law; is that correct?

A Yes.

Q Do you know a man named Hyman Getchner?

A He was my father-in-law.

Q Where is Hyman Getchner today?

A Deceased.

Q Before he died, do you know where he lived?

A He lived in Woodside, the same house we live in.

Q Whose house was that?

A His house.

Q And whose house is that now?

A Our house.

Q You got it after he died?

A My wife's house.

Q You got it after he died?

A Yes.

Q Passed to Mrs. Kadison by inheritance?

A That's right.

Radison-cross/Watkins

Q Now, do you know, or did you know Mr. Getchner's financial state for the year 1969, prior to his death?

MR. SHANLEY: I object to that, your Honor, this is hearsay.

THE COURT: No, I'll overrule your objection.

Go ahead, you may answer the question, if you can.

A I knew only to a limited extent.

Q Was Mr. Getchner dependent upon you for his life and livelihood?

MR. SHANLEY: I'll object to that.

THE COURT: No, I'll allow it.

A No, he was not dependent.

Q He had money of his own, is that right?

A Yes.

MR. SHANLEY: Same objection. This is new matter and the questions are leading, and they are also asking the witness to testify to something he has no knowledge of, as to somebody else.

THE COURT: Well, you did bring up the question of Getchner and the relationship to this witness, and I think that's a fair opening to explore what the relationship really was.

Did I understand you to say that during



1 Kadison-cross/Watkins

2 Mr. Getchner's lifetime he lived in that house with  
3 you and your wife?

4 THE WITNESS: It's a two-family house. They  
5 occupied one apartment and we the other.

6 THE COURT: I see. Go ahead.

7 Q Now, Mr. Kadison, I would like you to look at  
8 Government's Exhibit 72, and 72 again.

9 (Witness examines handed to him by counsel.)

10 Q Now, as I understand your testimony about those  
11 checks, those are checks, are they not?

12 A Yes.

13 Q They are checks made out to you?

14 A Yes.

15 Q As I understand your testimony, it is not your  
16 signature in the endorsement section of the check; is that  
17 right?

18 A Yes, sir.

19 Q And you said that you never explicitly gave  
20 anyone permission to sign your name to those checks. What  
21 do you mean by that, Mr. Kadison? Could you explain the word  
22 "explicitly".

23 A I knew nothing about these checks until they  
24 were shown to me a year ago or so, but I had no investment.  
25 This was not my money. I had no inkling that there was any

Kadison-cross/Watkins

of this coming in, and if it had to do with anything that derived from my father-in-law's property it belonged -- I felt that it belonged to the Tolkows.

Q Mr. Kadison, will you tell me why you felt that those checks with your name on them had --

MR. SHANLEY: I object to the form of the question, your Honor.

THE COURT: I think I'll sustain the objection as to form.

Q Mr. Kadison, was there a reason for your feeling-- that you were not entitled to those checks with your name on them?

A Well, whatever had to do with the property that was left before my father-in-law's estate had been accounted for as between the two sisters. Whatever they decided to be the division was decided upon, and anything that emanated from that had nothing to do with me.

Q Mr. Kadison, you invested no money with Robert Wendell; isn't that correct?

A That's correct.

Q And the checks that you have there, 72 and 75 are checks that are signed by Mr. Wendell; is that correct?

A Yes.

Q Now, do you remember having a conversation with



1  
2 the Tolkows -- and Mr. and Mrs. Tolkow, that's my client --  
3 and his wife and your wife about any monies that would be  
4 coming back from the Getchner investment.

5 MR. SHANLEY: The witness already testified he  
6 didn't recall the conversation.

7 THE COURT: I don't know whether it was exactly  
8 put in the form that Mr. Watkins has stated it now,  
9 so I'll overrule your objection. You may answer the  
10 question.

11 Do you want it read back?

12 A When I previously testified, it was at to a  
13 particular time.

14 THE COURT: You don't have to explain it.

15 Do you want this question read back so you

16 understand what this question requires?

17 Q Do you remember such a conversation, Mr. Kadison?

18 A It was either a conversation with the whole  
19 group or with my wife.

20 Q Now, what, if anything, was said at those  
21 conversations, if you can remember.

22 A That the women were content that any monies that  
23 came in were to belong to the Tolkows.

24 Q When you say any money that came in, came in  
25 from where, Mr. Kadison?

1  
2 A They had understood that there had been some  
3 money invested in some investment that my father-in-law may  
4 have made.

5 Q They understood that there had been investments  
6 by your father-in-law, that's Mr. Getchner, and some money  
7 was coming back from this investment?

8 A Yes.

9 Q And your wife and your sister-in-law, that's  
10 Mrs. Kadison, and Mrs. Tolkow, decided that that money was  
11 to go to the Tolkows; is that correct?

12 A Yes.

13 Q Did they enter into any other form of agreement?

14 A Well, again, I don't --

15 Q Let's see if I can direct you. Mr. Kadison, when  
16 Mr. Getchner died, you indicated that you and your wife  
17 inherited the house that Mr. Getchner had owned, and you  
18 lived in; is that right?

19 A Correct.

20 Q And, what if anything did Mrs. Tolkow get, who  
21 was your wife's sister and an heir of Mr. Getchner?

22 A I don't know what she got. She may have gotten  
23 some property, some personal property of some kind. I don't  
24 know.

25 Q You don't know.



1  
2 Was there any agreement with regard to any monies that  
3 came in from this investment? Can we fix a time and place  
4 and who was present, if there is such an agreement.

5 THE COURT: All right, try to do that.

6 Q Mr. Kadison, do you remember when this conver-  
7 sation occurred?

8 A There was probably not any one conversation.  
9 There may have been a number of them subsequent to the death  
10 of my father-in-law.

11 Q You had a number of conversations, you can't  
12 tell when as to how the estate was to be divided up; is that  
13 right?

14 A There were a lot of conversations about it.

15 Q And the decision was reached, was it not, that  
16 you and your wife would get the house and Mr. and Mrs. Tolkow  
17 would get everything else, any monies?

18 A Right.

19 Q Now, as you understood, Government's Exhibit 72  
20 and 75, they were for the return of some money from the  
21 Getchner investment?

22 A That was my understanding.

23 Q And it was your understanding that they were  
24 going to go to Mr. and Mrs. Tolkow?

25 A Yes.

Q So you had no --

MR. SHANLEY: Your Honor, I'm objecting again to the form of these questions.

THE COURT: Well, now, wait a minute. This is cross-examination and leading questions are definitely permitted on cross-examination.

MR. SHANLEY: I understand, but when you are talking about the witness' state of mind, constantly, it's your understanding this, it's your understanding that; cross-examination should -- As I understand it, your Honor, the rules of evidence still apply as to who said what, when and where, and identify the speakers.

THE COURT: Well, you'll have an opportunity, if you wish, to avail yourself of it on redirect examination to probe into some of these matters.

Now, these two checks were brought out on direct examination, and I think Mr. Watkins has a right to probe what it is this witness does know about them; whether he signed them or not.

Q It was your understanding then that checks that were written to you or checks that were written to your wife on the Getchner investment or returned on the Getchner investment were to go to Mr. Tolkow or Mrs. Tolkow; is that right?



1  
2 A Yes.

3 Q Now, Mr. Kadison, I have shown you what is  
4 marked as Government's Exhibit 93 in Evidence, and you  
5 indicated that you signed that document, did you not?

6 A Yes.

7 Q And you signed it -- what is the date on that?

8 A March 22, 1971.

9 Q And you say it was presented to you, as I  
10 understand your testimony, either by Mr. Tolkow or by your  
11 wife for signature?

12 A Yes.

13 Q And did you have any understanding what that  
14 deed -- that's a deed, isn't it?

15 A I guess so.

16 Q Was in connection with. Did you know what that  
17 was in connection with?

18 A I know something in a vague manner, that for  
19 some period of time some mail had come to the house,  
20 addressed in the three names that are indicated here, and  
21 whatever came I turned over to my brother-in-law, and I  
22 didn't concern myself with it.

23 Q You knew that deed was in connection with the  
24 Getchner property, the Getchner investment, did you not?

25 A Yes, sir.

1  
2 Q And you know that your father had invested --  
3 father-in-law had invested some money through Mr. Tolkow on  
4 some property, did you not?

5 MR. SHANLEY: I object to that question, that's  
6 assuming a fact not in evidence.

7 THE COURT: Well, now, wait a minute. There is  
8 evidence to the effect that -- I can't see why that  
9 isn't a fair subject of cross-examination of this  
10 witness.

11 MR. SHANLEY: The question was you knew that  
12 Mr. Getchner had invested money. That was the ques-  
13 tion.

14 THE COURT: As I said to you, a lead --

15 MR. SHANLEY: That's assuming --

16 THE COURT: You're objecting to the form?

17 MR. SHANLEY: Yes.

18 THE COURT: I'll sustain it as to the form.

19 MR. WATKINS: I will rephrase it.

20 THE COURT: You understand the way it should  
21 be.

22 Q Mr. Kadison, did you have any understanding  
23 about any investment that Mr. Getchner had made through  
24 Mr. Kadison?

25 A Not through me.



Kadison-cross/Watkins

1 Q : I'm sorry, through Mr. Tolkow. I'm sorry.

2 Did you know that he had made an investment through Mr. Tolkow

3 A I had known something about this in a general  
4 way, about an investment.

5 Q And did you know that it was on some property  
6 in Long Island?

7 A I didn't know what it was about.

8 Q You didn't know what it was about?

9 A No.

10 Q Did you subsequently learn that that property  
11 or that investment had to do with some property?

12 A Yes, in some way it was connected with the  
13 property that's represented here.

14 Q So you knew that that deed, Government's Exhibit  
15 93 was in some way connected with the Getchner's investment?

16 A Yes.

17 Q And you knew that Mr. Tolkow had handled an  
18 investment for Mr. Getchner?

19 A Yes.

20 Q And when Mr. Tolkow presented you or Mr. Tolkow  
21 or your wife presented you with that document to sign you had  
22 no reason not to sign it; is that correct?

23 A Yes.

24 Q Mr. Kadison, were you in any way upset by the  
25

fact that these checks that were made out to you were signed by someone else and deposited in their account and not in your account?

A I wouldn't say upset; I was surprised.

Q Did you learn whose account they were deposited in?

A Yes, I could see.

Q Whose account?

A On Mr. Tolkow.

Q And that accorded with your agreement, your wife's agreement with Mr. Tolkow, that any monies that would be returned from the Getchner investment should go to the Tolkows; is that correct?

A Yes.

MR. WATKINS: Thank you, Mr. Kadison. I have no further questions.

MR. SHANLEY: One or two questions, Mr. Kadison.

REDIRECT-EXAMINATION

BY MR. SHANLEY:

Q Mr. Kadison, you testified on cross-examination about understanding. If my notes are correct, you testified that they understood that money was coming back from Getchner's investment. Who told them that this money was coming back from an investment of Getchner?



Kadison-cröss/Watkins

A I assumed Mr. Tolkow told them.

Q It wasn't Mr. Portnoy?

A I never knew Mr. Portnoy.

Q Were you present at any time when Mr. Tolkow said to your wife or yourself, the monies are coming back from an investment that I made or for Mr. Getchner?

A I don't recall.

Q And these two checks that your signature is on, at any time before the year 1973 or '72, let's say 1972, did you know of the existence of these checks?

A No.

MR. SHANLEY: I have no further questions.

THE COURT: All right, Mr. Kadison, you may step down.

MR. SHAMWELL: The Government calls as its next witness Mrs. Rhoda Kadison.

R H O D A K A D I S O N , having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SHAMWELL:

Q Good morning, Mrs. Kadison.

A Good morning.

Q Are you married?

A Yes.

R. Kadison-direct/Shamwell

1

2

Q How long have you been married?

3

A It will be 30 years in June.

4

Q And you know the defendant?

5

A Yes, he's my brother-in-law.

6

Q Approximately how long have you known him?

7

A About 30 years; maybe a little longer. I knew his family, his mother, his sister.

9

Q Is his wife your sister?

10

A Yes.

11

Q Now, Mrs. Kadison, are you familiar with a company called Salonga Homes, Incorporated?

13

A I didn't know about it until the date of the Grand Jury hearing when it was shown to me.

15

Q About a company known as Brightwater Associates?

16

A That I don't know.

17

Q Salonga Property, Incorporated?

18

A The word Salonga is the only one that stays with me, that's from the Grand Jury.

20

Q Now, tell me, are you familiar with a gentleman by the name of Mr. Robert Wendell?

22

A No.

23

Q How about a Mr. Alfred Fassnacht?

24

A No.

25

Q Mr. Murray Portnoy?



R. Kadison-direct/Shamwell

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A. No.

Q Hyman Getchner?

A My father.

Q Can you explain who he is? You say he's your father, of course, I heard you. Is he alive?

A My father died in January of 1970 at the age of 85.

(Continued on next page.)

Kadison-direct

Q I've asked you if you know or were familiar with Salonga Homes or Fassnacht or Wendell. Did you ever make any loans to any of those individuals or the corporations?

A You are talking about me personally?

Q Yes, you personally.

A No.

Q Do you know of anyone in your family who has, your immediate family?

A I didn't know until that hearing, that my father had invested, and I'm not sure which one.

Q I'll come back to that.

I place before you a group of documents which are already in evidence and for the record they are Government's Exhibits 74, 76, 78, 80, 79, 81, 82, 83, 84, 98 and 99. For simplicity's sake I would like you to look at the ones as they appear before you, and we'll talk about them.

Government's Exhibit 75. Are you familiar with that? Can you identify that? That's the first one of the group.

A Yes, it's payable to me, and both my sister and myself endorsed it.

Q How much is that check for?

A For \$3,000.



Kadison-direct

Q Can you explain, did you receive that check?

A Yes. This check was brought to me by my sister and brother-in-law, and I can't tell you that it was this date or what, but in this area, and they had told me that an investment that my father had made a long time ago, and we had thought was completely lost was coming alive, and that this was a check to begin the repayment of it. As one of the heirs, this one was made payable to me.

Q Now, what was your response to that?

A Well, it's either in reference to this check or another one, I can't exactly place a time, but at that point I discussed with my sister -- we are the sole heirs, my sister and I -- that since at the time of my father's death I had received almost the entire estate by his desires, that I felt that since this thing had come alive again I wanted the Tolkows to get whatever came in on this investment.

Q Now, there is a notation on that check, I believe, towards the left-hand corner.

A Yes.

Q Will you read that for the Court and jury?

A "Part payment of loan, Portnoy, Kadison and Getchner.

Q Did you have any part in that since your name

1 Kadison-direct

2 appears there?

3 A No. You mean in the original investment?  
4 No. To my knowledge it was the beginning of the returns of  
5 my father's investment.

6 Q Maybe you can explain what was the nature of  
7 that investment. Did you have any idea of it in a specific  
8 way?

9 A No. I knew my father had told me somewhere  
10 along the line -- pardon me again. I can't tell you time;  
11 that he had gone into an investment, a big one. I sort of  
12 vaguely thought it had something -- I was not sure. We  
13 were living under crisis conditions with an invalid mother  
14 and literally I was running a nursing home and my own home  
15 and all of this was just in passing and I just don't remember  
16 this.

17 Q Mrs. Kadison, look at the next check,  
18 Government's Exhibit 76, and could you possibly explain what  
19 that is? Do you recognize it? Are you familiar with it?

20 A It's made payable to me, the same return of  
21 loan of Portnoy, Kadison and Getchner.

22 Q Is there a notation on that check?

23 A Also return of loan for Portnoy, Kadison and  
24 Getchner.

25 Q Is that part of the same --



Kadison-direct

A It's the same company, Salonga Homes, so I would assume it's the same.

Q Is there an endorsement? Will you turn to the opposite side? Is there an endorsement there?

A Yes, there is. I told my brother-in-law after I had endorsed it first, and we didn't know what was coming in or what have you, and I told them that I wanted them to have the money and would he please endorse the checks that followed this, and it was for my sister and him, for the Tolkow family, I told him to do that.

Q You gave him permission?

A Yes.

Q Now, did you receive any of the proceeds from those checks in this point in time?

A No.

Q Let's go on. I turn your attention to Government's Exhibit 78. Could you please tell us about that check? Is that your signature on that check?

A No.

Q Whose signature appears there?

A I really couldn't tell you.

Q Is your name there?

A It's my name, it's signed Rhoda Kadison.

Q Are there any words underneath your signature,

Kadison-direct

what purports to be your signature?

A No, the bank stamp, paid to the Trade Bank.

Q It says nothing else?

A No, not in script, no.

Q Now, I call your attention to the next check, Government's Exhibit 80. Will you also tell me whether that check is made out to you or to whom it's made out?

A Also payable to me.

Q Is your signature there?

A It's my name but it's not my signature. My handwriting I should say.

Q What is there?

A My name and the stamp.

Q And let's go to Government's Exhibit 79.

A That was 79.

Q I think 80 comes before 79. Which one do you have before you now?

A I have number 80.

Q Which one was that for, \$6,000?

A Yes.

Q You just discussed that?

A The preceding one we discussed was 79 for \$3,000.

Q Let's talk about Government's Exhibit 80.



Kadison-direct

Again is that check made out to you?

A Yes.

Q And is that your endorsement on the other side?

A No.

Q And again you might just repeat how did you give someone permission.

A Yes, I told my brother-in-law Bernie Tolkow not to bother me when they came in, it was for him, just endorse my name and deposit it.

Q You noticed the date on that, Government's Exhibit 80? It says, I believe November 13 or 17, 1970?

A November 17.

Q Now, how long had your father been dead at this point?

A Ten or eleven months.

Q Did you have any idea why the check was still coming in to your name?

A No, because actually I didn't really know about them. The initial check I knew gradually as money came out of that investment it would be coming in, but I didn't know the frequency or the amount.

Q To your knowledge, did you ever receive a check that had your name as payee and anyone else's name as a co-payee?

1 Kadison-direct

2 A No, I don't know about that.

3 Q I think we can go to Government's Exhibit 81.

4 Again I'll ask you the same question. Can you identify  
5 that? Is it made out to you?

6 A Yes, it is.

7 Q Does your name appear on the reverse side?

8 A This one has no endorsement.

9 Q What does it have there?

10 A Mainly the stamp for a deposit.

11 Q Read that.

12 A Paid to the Trade Bank Trust Company for order  
13 Bernard Tolkow.

14 Q Let's go to Government's Exhibit 82 again.  
15 Is that -- will you explain that?

16 A Another check made payable to me, same  
17 company, all the same.

18 Q And what does the name on the endorsement say?

19 A My name is signed and the bank stamp.

20 Q And what is that stamp?

21 A Paid to the Trade Bank and Trust and Bernard  
22 Tolkow Special, and he signed it.

23 Q Now, we are getting repetitive.

24 A Yes, it's all the same.

25 Q So examining quickly Government's Exhibit 83  
and 84, are these similar checks made out to you for the



Kadison-direct

amount stated?

A Same thing, payable to me, one is endorsed, one is not.

Q And the same stamp appears on the reverse side?

A Yes.

Q Now, I call your attention to Government's Exhibit 98 and 99. This is a similar check made out to you; two checks that is?

A Yes.

Q And what is the amount there?

A Both are for \$6,000; both checks.

Q Will you please turn on the other side of that check, is there an endorsement there?

A Yes.

Q Whose endorsement?

A Again it's Rhoda Kadison.

Q Whose signature is that?

A Well, this one -- I'm not sure, it could possibly be my husband's. It's very quickly written, I'm not sure.

Q But to your knowledge, is it fair to say -- is it familiar to you as sure?

A I would question it. There is a resemblance to it, but not really. It could be, but then again, if it

Kadison-direct

was done in great haste -- I don't know how to describe it.

Q I direct your attention to the stamp on the back. There may be an account number.

A There are so many stamps. The Israeli Discount Bank, is that what you are talking about?

Q Is that your account?

A Yes. We did have such an account.

Q It's fair to say?

A I guess it would be.

MR. SHAMWELL: Miss Kadison, I have no further questions. Thank you very much.

CROSS-EXAMINATION

BY MR. WATKINS:

Q Mrs. Kadison, as I understand your testimony, and you correct me if I am wrong, you and your sister had an agreement about the monies that were to be returned on the Getchner investment; is that right?

A Yes.

Q And that agreement was you got the house, Mr. Tolkow and your sister, Mrs. Tolkow and Mr. Tolkow got any monies that came in from the return on the investment.

A Correct.

Q Did you ever find out how much that return on the investment was?



Kadison-cross

A No.

Q Weren't you interested?

A Not really because I knew, if anything was coming to me I trusted them completely. I knew -- you know, this was my election. I wanted them to have it. I never inquired. I knew it was in good hands.

Q Now, you had an appearance before the grand jury in 1973, did you not?

A When was that?

Q 1973.

A I don't know. I don't remember. That's why I'm asking you.

Q Is it fair to say that a few years ago you appeared in front of a grand jury in this courthouse with regard to this matter?

A Yes.

Q And on that occasion did you tell the grand jury that you had permitted or given Mr. Tolkow permission to sign these checks because of the arrangement you had with your sister-in-law?

A Yes.

MR. WITKINS: Thank you, Mrs. Kadison. I don't have any further questions.

THE COURT: Anything further?

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Kadison-cross

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MR. SHAWWELL: No further questions.

3

THE COURT: You may step down, Miss Kadison.



DIRECT TESTIMONY OF MURRAY PORTNOY ON  
APRIL 7, 1975

1 M U R R A Y P O R T N O Y , having been duly sworn by  
2 the Clerk of the Court, took the witness stand and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SHANLEY:

6 Q State your name for the record.

7 A Murray Portnoy.

8 Q How old are you?

9 A 52.

10 Q Are you married?

11 A Yes.

12 Q How long?

13 A 34 years.

14 Q Do you have any children?

15 A Yes.

16 Q Living at home?

17 A Yes.

18 Q How many?

19 A One is living at home.

20 Q What is your occupation?

21 A Labor relations consultant.

22 Q And how long have you been in that position?

23 A About 12 years.

24 Q What is your education, Mr. Portnoy?

25 A I had very little formal education. Most of

Portnoy-direct

it has been trade school.

Q Never went to college?

A No sir.

Q Will you briefly tell the Court and jury your history of your employment, starting back when you started.

A I started working in the plant, I guess 1934, 1935, got an apprenticeship program around 1940, became a tool and die maker and became an official of the U.E.

Q What is the U.E.?

A United Electrical Workers. I have been active in the union ever since the time I left in 1964.

Q In 1964, what did you do?

A I started a labor relations firm.

Q And what is the name of that firm?

A Corporate Consultant.

Q And where is that firm located?

A Plainville, New York.

Q And can you tell the Court and jury just what the nature of that business is?

A Primarily we have three basic functions, one is the training management of front-line management, negotiations and handling of arbitrations and labor board work and election campaigns for the employers.

Q Who are your clients on a day-to-day basis,



Portnoy-direct

employers or the union?

A We only represent employers and in some instances we represent the public.

Q Do you know the defendant Mr. Bernard Tolkow?

A Yes sir.

Q How long have you known him?

A I imagine 12, 51 years, maybe more.

Q Twelve to fifteen years, that would put it back around 1960, little bit before?

A Thereabouts.

Q During the years 1960, in the sixties, all the way through the sixties, were you acquainted with him socially or business-wise?

A I would say both.

Q Now, directing your attention, Mr. Portnoy, to the year 1969, specifically in the spring of 1969, did there come a time when you saw Mr. Bernard Tolkow?

A Yes sir.

Q And where did you see him?

A At my office.

Q What, if any, phone calls proceeded your seeing him at your office?

A I don't know of any specific phone calls. We were in touch with each other, we had a relationship.

Portnoy-direct

1  
2 Q So you did meet him. Was it a pre-arranged  
3 meeting at your office, if you can recall?

4 A Yes sir.

5 Q Can you fix a month that this took place?

6 A I would say around April.

7 Q Of 1969?

8 A Yes.

9 Q Did you have a conversation with Mr. Tolkow  
10 during that meeting?

11 A Yes.

12 Q Was there anybody else present, if you can  
13 recall?

14 A No sir.

15 Q Now, will you tell the Court and jury as  
16 best you can recall what happened, who said what and start  
17 right from the beginning, if you can.

18 A Just a general conversation that finally  
19 led around to the fact, discussing a real estate venture.  
20 At that time I wasn't sure of the name.

21 Q What did Mr. Tolkow say?

22 A It was a vehicle for achieving capital gains  
23 and that he was -- his father-in-law was investing in it.  
24 He was giving his father-in-law some money to invest in it.

25 Q What did he say to you about this?



Portnoy-direct

A That's about the sum and substance of what he said.

Q Did he explain what capital gains meant?

A I don't believe so.

Q Did he use any particular phrase when he was describing to you this vehicle?

A No sir, not that I can recall.

Q Do you recall the word green being used?

A Possibly.

Q What did he say? Did he say to you -- will you reiterate -- I'm not sure I understand or the jury understands what he said to you.

A That it was an opportunity to convert cash or green into capital gains. I don't recall the exact conversation.

Q What did you say?

A I told him, I asked him if there is a way to use that same vehicle to take a check and convert that into green, to check out of the company, cash it and put it in through that same entity and get the cash for it.

Q What did he say?

A He said it could.

Q Was there any amount mentioned at that time?

A I suggested \$10,000.

Portnoy-direct

Q What, if anything, did Mr. Tolkow say at that point when you suggested \$10,000?

A That when I was ready to proceed we would proceed.

Q What, if anything, did he say about the check and the \$10,000?

A I told him when I would have the check. He told me he would bring the people over who are handling the real estate. He subsequently came to my office.

Q Before we get to that, what about the cash?

A That he would give me the cash.

Q Was there any talk at that time with Mr. Tolkow about realization of profits from that?

MR. BERGAN: Objection, leading.

THE COURT: Sustained.

Q Do you recall anything else at that conversation?

A No sir.

Q Is your recollection exhausted as to that conversation?

A You're talking about that initial conversation?

Q Yes.

A No, except it was set the following day and that was the end of that conversation.

THE COURT: Did you say day or date?



Portnoy-direct

THE WITNESS: Subsequent date.

Q Was there anything further that you could recall that was said?

A No.

Q Was there any conversation about your realization of profits out of that?

MR. BERGAN: Leading.

MR. SHANLEY: The witness has exhausted his recollection, your Honor. I'm asking him whether there was any conversation about the profit.

THE COURT: I'll overrule the objection.

THE WITNESS: There was no discussion about me realizing any profit out of that transaction other than the fact that it would be a tax-free kind of thing.

Q And what do you mean by that?

A That I would have the green. I would have a check which would look on the books as an investment but I would actually -- was not an investment -- it was no profit to me other than that.

Q The \$10,000?

A That's correct.

Q Now subsequent to that meeting, did there come a time when you saw Mr. Tolkow again with others?

A Yes.

Porunoy-direct

Q And where did that take place?

A My office.

Q And was there any phone calls, if any, preceding that meeting?

A Yes, I called to make a date to have it, so that we all be there at the same time.

Q And did these people appear?

A Yes sir.

Q And who appeared, if you can recall?

A I remember two gentlemen; one was named Fassnacht, one I believe was Wendell, I'm not sure.

Q And was Mr. Tolkow there too?

A Yes.

Q And was there a conversation in your office?

A The gentleman showed me a drawing of where the property was. I can't really say I listened with great intent, and I gave him a check for ten thousand. They gave me a receipt in return and they gave me the drawing which I no longer have.

Q What, if anything, did you recall Mr. Tolkow saying?

A Not very much. I don't recall, I'm sorry.

Q I show you Government's Exhibit 54, is that your signature on that check?



Portnoy-direct

A Yes, it is.

Q Is this the check that you gave to the gentleman that day?

A Yes, it is.

Q And what is the date on that check (showing check to witness)?

A April 11th.

Q How long did this conversation last, if you can recall.

A Fifteen, twenty minutes.

Q Subsequent to that conversation, what, if anything did you receive?

A I received the net amount of that check.

Q From whom?

A From Mr. Tolkow.

Q Was it in cash or a check?

A Cash.

Q Do you recall whether or not there was any conversation between you and Mr. Tolkow at that time?

A No sir.

Q Can you pinpoint the time of your receipt for the jury, if you possibly can, of the cash, as best you can?

A It had to be close to that because I couldn't

Portnoy-direct

completely cover the check. I had to deposit a good part of that to cover it.

Q So it was either that day or a day or so after?

A Yes sir.

Q At the time of your meeting with Mr. Wendell, and Mr. Fassnacht, what, if anything did they sign if you recall?

A A receipt.

Q I show you Government's Exhibit 55, do you recognize that?

A That seems to be the receipt.

Q And this is signed by two people, the signatures are rather faint.

A I can't make them out.

Q How much is this for?

A Ten thousand dollars.

Q You have to speak louder.

A Ten thousand dollars.

Q Subsequent to that meeting, did there come a time when you made a phone call?

A Yes.

Q And who did you call?

A I called Mr. Tolkow again and suggested converting the additional check.



Portnoy-direct

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Q With how much?

A Five thousand approximately.

Q What, if anything did he say?

A He said okay.

Q I show you Government's Exhibit 61, is that  
your signature?

A Yes.

Q How much is that check for?

A Five thousand dollars.

Q What did you do with this check? Do you  
understand my question? Did you hand it to Mr. Tolkow?

A I arranged to have Mr. Tolkow pick up the  
check and drop the equivalent amount of cash off at the  
office.

Q And did you receive the cash?

A Yes sir.

Q Now, with regard to this \$5,000 check, how  
did you record that on your books?

A As a loan to Brightwaters. I did that with  
both checks.

Q Did you ever see Mr. Wendell or Mr. Fassnacht  
again?

A No sir.

(continued next page)

Portnoy-direct

1  
2 Q Now, you have testified about these two checks,  
3 Mr. Portnoy. Did there come a time subsequent to that in  
4 1969 that you met somebody at the Blue Day Diner?

5 A Subsequent to signing that I met Mr. Tolkow  
6 at the Blue Day Diner because in going through with this  
7 thing, I didn't think through and I don't think anybody else  
8 did, was how that money would come back. I met at the diner  
9 and signed some papers.

10 Q What did he say to you?

11 A That the papers had to be signed in order for  
12 the money that's been invested in Brightwaters to be paid  
13 back to the people who invested in it.

14 Q Do you recall anything about those particular  
15 papers?

16 A I only recall that there was a promisory note  
17 with an interest rate on it. I don't recall the specifics  
18 of it. I know I did sign it.

19 Q And have you searched your files for that  
20 document, a copy of that document?

21 A I have. I have not found them.

22 Q Do you recall what the interest was on that?

23 A I'm not sure. I just don't recall.

24 Q Could you give a ballpark figure?

25 A About 18 or 25, I don't remember.



Portnoy-direct

Q In the years 1969 and 1970, the second half of 1969 and the year 1970, did you have any conversation with Mr. Tolkow, if you can recall, about this investment in 1969 and 1970?

A The only time I had any conversation after that is when Mr. Tolkow asked me to sign a document transferring title from his father-in-law to his wife. That is the only time that I had any conversation regarding that transaction.

Q I show you Government's Exhibit No. 93 and ask you to look at the date of that. What is the date on that.

A 22nd of March 1971.

Q So would it be fair to say on or about that time you had this conversation with Mr. Tolkow?

A It would appear so from this document.

Q Now, do you recall where you had this conversation with him?

A With this specific document, no, I can't recall.

Q Would you tell the Court and jury as best you can recall, the conversation you had with Mr. Tolkow concerning this document?

A I don't recall any conversation concerning

Portnoy-direct

the document. I recall signing it. My signature is on it.

Q Is your signature on it?

A Yes, it is.

Q You notice on that signature page there are other signatures on there; is that correct?

A That's correct.

Q Were those signatures on that document when you signed it?

A No sir.

THE COURT: What is the number of that one?

MR. SHANLEY: Government's Exhibit 93.

Will you read the top line here as to the parties involved?

A Murray Portnoy, Hyman Getschner and Herbert Kadison.

Q And with regard to the signature line on the bottom three lines, whose signature appears first?

A Mine.

Q And then there is another signature underneath that?

A That's correct.

Q And your testimony is that those two signatures were not on the document when you signed it?

A That's correct.



Portnoy-direct

Q And what is the second signature on that line?

A Alice Tolkow and Herbert Kadison's signature.

Q At whose request did you sign this document?

A Mr. Tolkow's.

Q And do you recall any conversation preceding that?

A No.

Q Signing?

A No sir.

Q Now, did there come a time when Mr. Tolkow, and you had another conversation about this \$15,000 investment?

A Yes sir.

Q And, what, if anything, did he do at that time?

A At that time I was informed that his father-in-law had passed away and that the real estate was willed to his wife and we had to execute a new document which would contain his wife's name and my name on the same document.

Q Do you recall where this conversation took place, if you can?

A The first one probably could have been at my office, I don't recall.

Q Did there come a time when he presented a document to you?

A Yes.

Portnoy-direct

MR. SHANLEY: Your Honor, may I remove this piece of paper from the back?

MR. BERGAN: Sure.

Q I show you Government's Exhibit 94 dated the 6th of October 1971, do you recognize that document?

A It could be the document that I saw at the time.

Q What did you say to Mr. Tolkow when he asked you to sign that document?

A I told him that I didn't think it was a good idea for my name and Mrs. Tolkow's name to be on the same document, putting us in a business relationship of any kind.

Q What did he say, if anything?

A He said because of the untimely death of his father-in-law there was really no choice, and he suggested that if I had any way of doing it to consult an attorney to see if there is another way of doing it. We had many conversations about it but there was no way that I could see myself signing that document.

Q You say many conversations, were there phone calls?

A Yes.

Q Did there come a time during those phone calls that a solution was suggested?

A During one of the conversations when he



Portnoy-direct

seemed quite agitated, I offered if the Brightwaters would pay back the checks to me I would convert the checks back into cash and return the cash rather than find the document.

Q What, if anything, did Mr. Tolkow say to that?

A I don't recall his response, if any.

Q Now, Mr. Portnoy, did there come a time after these phone calls that you did see Mr. Tolkow again?

A Yes sir.

Q And where was this?

A I met at his office.

Q And what was the conversation at that time?

A At that time he raised the question about signing the documents again as being the only viable way of transferring title from the deceased to his wife. I told him that I would not sign it, that there were implications in it that I was afraid of. He then asked as a personal favor and my retort to him on the personal favor I would not want to take a risk on any personal basis that could lead to a jail sentence. I was afraid of it.

Q And did you refuse to sign?

A Yes.

Q What if anything did Mr. Tolkow say when you told him that you would not sign?

A I don't recall him saying anything other than

1 Portnoy-direct

2 I just got up and that was it.

3 MR. SHANLEY: For the record, your Honor,  
4 Mr. Bergan, removing a piece of paper from Government's  
5 Exhibit 95.

6 Q Mr. Portnoy, I show you Government's Exhibit 95  
7 indenture dated the 27th of October 1971 -- and by the way --  
8 Government's Exhibit No. 94 which you have just testified to,  
9 which you did not sign, what is the date of that?

10 A The sixth of October 1971.

11 Q I ask you to examine the signature line of  
12 this particular page of Government's Exhibit 95.

13 A Yes.

14 Q Is that your signature?

15 A No.

16 Q Now, will you just spend a minute or two  
17 comparing this document, the substance of this document,  
18 with the substance of 94. In other words, compare 95 and 94  
19 as to the substance.

20 (Witness looking at exhibits in front of him.)

21 A They appear to be identical.

22 Q The descriptive parts in the body of the  
23 document appear to be identical, is that correct?

24 A Yes.

25 Q Now, there came a time when you did see this



Portnoy-direct

document or a copy of this; is that correct?

A Yes.

Q Government's Exhibit 95?

A Yes sir.

Q Where did you see that for the first time?

A When I was subpoenaed for the grand jury, I retained counsel. When I told counsel --

MR. BERGAN: Objection.

THE COURT: Objection sustained.

A My attorney brought it to me.

MR. SHANLEY: If your Honor please, I would like to pass 94 and 95 amongst the jury.

(Showing Government's Exhibit 94 and 95 to the jury.)

MR. SHANLEY; Shall I continue?

THE COURT: You may wish to have the jury look at it.

MR. SHANLEY: Yes.

DIRECT EXAMINATION

BY MR. SHANLEY (Continuing):

Q To your knowledge when your lawyer gave you a copy of that document, to your knowledge do you know where he got it from?

MR. BERGAN: Objection.

Portnoy-direct

THE COURT: I was about to sustain it.

MR. BERGAN: I think it calls for a conclusion.

THE COURT: I was supposed to sustain it on that ground.

Q (MR. SHANLEY CONTINUING) Was it an official document that you saw?

A Yes sir.

Q Now, after this conversation, the last conversation you testified to that you had with Mr. Tolkow, did you see Mr. Tolkow in the period following that?

A There was a period of time after that that we didn't see or speak to each other after that, if at all. Eventually we got together and we resumed our normal relationship.

Q Now, you testified previously, Mr. Portnoy, about seeing Mr. Tolkow in the Blue Bay Diner. Did there come a time in the spring of 1973, that you met somebody in the Blue Bay Diner?

A Yes sir.

Q Who was that?

A I met Mr. Tolkow.

Q How did this meeting come about?

\* \* \* \*



8 DIRECT EXAMINATION .

9 BY MR. SHANLEY (Continued):

10 Q Mr. Portnoy, you testified a few minutes ago  
11 that you met Mr. Tolkow at the Blue Bay Diner sometime in  
12 April of 1973. My question to you before we had a side  
13 bar meeting, what phone calls, if any, led up to that  
14 meeting.

15 A I received a phone call from Mr. Tolkow's  
16 secretary to leave a number where he could reach me from  
17 Florida, and I complied with that request.

18 Q Did you call him?

19 A He called me at the number I left with his  
20 secretary.

21 Q And was there a conversation?

22 A He just set a date for the following morning  
23 to meet at the diner.

24 Q And did you meet him at the diner?

25 A Yes, I did.

Portnoy-direct

1  
2 Q And will you tell us the conversation that  
3 took place?

4 A He informed me that his brother-in-law and  
5 sister-in-law had been subpoenaed in the grand jury, and he  
6 felt that I would be subpoenaed and he knew that I had a  
7 heart attack some time ago, and he felt rather than be  
8 shocked by it he would forewarn me about it. We discussed  
9 that and I was shocked by it and upset.

10 Q What did he tell you?

11 A He told me that the logical explanation would  
12 be since his family took out their interest that they felt  
13 the deal soured and I felt the deal didn't sour and I would  
14 just take the posture that my investment is still there, and  
15 just let it go at that.

16 Q Is that what he told you to tell the grand jury?

17 MR. BERGAN: Objection, that's leading.

18 THE COURT: Sustained.

19 Q What, if any, instructions did he give you?

20 MR. BERGAN: Objection, that's leading again.

21 THE COURT: Sustained.

22 Q He told you that you were going before the  
23 grand jury?

24 MR. BERGAN: Objection, that's misconceiving  
25 the evidence.



Portnoy-direct

MR. SHANLEY: The witness said Mr. Tolkow told him that he expected him to be subpoenaed next.

Q What if anything did he tell you?

A We discussed the fact that at the time that I appear before the grand jury that possible position would be to simply state the fact that I left my \$15,000 in there and that it's still in that Brightwater investment.

Q What did you say?

A I didn't say anything. I was just stunned by the whole bit. I don't recall saying anything.

Q Why were you subpoenaed?

A Because I was concerned and worried.

Q Can you explain that, sir?

A Yes, because it's not a pleasant prospect to be called before a grand jury, number one; and number two, I felt that there is room for criticism in my role in this thing.

Q Now, Mr. Portnoy, you had gotten your \$15,000 cash; is that correct?

A That's correct.

Q Was this an investment as far as you were concerned?

A At no time.

Q Now, what did Mr. Tolkow tell you to say in

Portnoy-direct

there?

THE COURT: Sustained.

Q Well; this discussion centered about possible testimony before the grand jury?

A The discussion centered about what alternatives I would have once I'm before the grand jury.

Q . And this is what he told you to say?

MR. BERGAN: Objection, there is no suggestion that he's telling him to say anything, your Honor.

THE COURT: Yes sir. I sustained the objection and I instruct the jury to disregard Government counsel's characterization of the evidence about alternatives.

Q Is your recollection exhausted as to that conversation as to what he told you or what he did not tell you?

A Pretty much so; yes.

Q Do you recall testifying before the grand jury?

A Yes sir.

MR. SHANLEY: Mark this for identification.

THE CLERK: 15-page document dated May 30 marked Government's Exhibit 129 for identification.

BY MR. SHANLEY:

Q I hand you Government's Exhibit 129 for



Portnoy-direct

identification, dated May 30, do you recognize that?

A Yes.

Q What is that?

A It's a transcript of the grand jury testimony.

Q I direct your attention to Page 13. Will you read page 13 and 14 to yourself.

(The witness doing as instructed.)

MR. BERGAN: May we see your Honor at side bar while the witness is reading that?

\* \* \* \*

11 DIRECT EXAMINATION

12 BY MR. SHANLEY (Continuing):

13 Q Have you refreshed your recollection?

14 A Yes.

15 Q Do you now have an independent recollection as  
16 to anything else that Mr. Tolkow told you or said to you at  
17 that meeting, without looking at the transcript?

18 A He explained to me the theory that -- to  
19 proceed on in the will, the house, the real estate left to  
20 the sister and the money was left to his wife; and that up  
21 until very recently I had faith that this nursing home, a  
22 medical center, was going to be built and I left my money  
23 in there, and earlier that year around January, February,  
24 that he informed me that there was a foreclosure and the  
25 money was down the drain and that's where the conversation



Portnoy-direct

ended.

Q What response, if any, did you give?

A I didn't give him any. I was just in a state of shock.

Q Did there come a time subsequently that you were served with a subpoena?

A Yes, I was.

Q Did there come a time that you saw somebody at the Blue Bay Diner again after your service of the subpoena?

A After I received the subpoena I called Mr. Tolkow. I asked him to meet me at the diner again. I told him I was going to appear. I discussed with him the fact that I was not particularly glad that I didn't sign the document that he asked me to sign. I asked him if he consulted an attorney, he told me he did not. I told him that one of the things I was considering doing when appearing before the grand jury was exercising my privilege under the Constitution against self-incrimination. He commented at that point the grand jury would grant me immunity and climb all over me. We didn't discuss anything further than that. It was very short and very abrupt and then two days later I was before the grand jury, or maybe the next day, I don't remember now.

Portnoy-direct

Q Now, subsequent to that conversation, you testified that you appeared before the grand jury. Upon your return from the grand jury on that day, which was you testified, May 30, 1973, what happened upon your return?

A Mr. Tolkow called me that evening and I left a number with my wife where he could reach me at a public phone and we talked, and I told him at that time that I was instructed by my attorney that I ought not discuss the testimony that I had discussed before the grand jury, and that I was advised against meeting with him during this investigation.

Q Had he asked to meet with you?

A He suggested that we meet; yes.

Q And your response was what?

A My attorney thought it would be a very bad idea.

Q What, if anything, did he say to that, if you recall?

A. He didn't agree with the attorney's advice.

Q Was there a conclusion to the meeting?

A Just the conclusion was that I wouldn't meet unless the attorney told me it was okay to meet, and I thought it would be better if we don't meet.

Q Are you familiar with a restaurant called



Portnoy-direct

Garbriccio's Restaurant?

A Yes.

Q Were you there during the summer of 1973?

A I'm there quite often.

Q And particularly, were you there in the summer in which you received a telephone message?

A Received a telephone call from --

Q From whom?

A From Mr. Tolkow.

Q And was there a conversation?

A Yes.

Q By the way, where is Capriccio's Restaurant?

A Woodbury -- I'm sorry, Jericho.

Q Jericho, Long Island?

A Yes.

Q Now, what was the conversation you had with Mr. Tolkow?

A He called me to tell me that -- in a friendly manner that he heard that I was bad rapping him and his union. I assured him that I wasn't bad rapping him or his union. I wasn't looking to do him any harm or his union any harm.

Q What, if anything, did he say to that?

A He said he hoped I was smart enough not to do that because he thought that he could do me more harm than

Portnoy-direct

I could do him. I said we are not out to do each other any harm. As far as meeting, I think the attorney's advice is what I would subscribe to. If his attorney wanted to call my attorney, feel perfectly free to do so.

Q Do you recall any other conversation, anything else that Mr. Tolkow said during that conversation?

A He pointed out in the accounting, his brother-in-law did have additional funds over and above the original.

Q Repeat that? You have to speak clearly. What did he say?

A He asked me if I had written off the \$15,000 as a tax loss, and I told him I had not. He said, "Well, don't, it would create some IRS problems."

Q For who?

A He indicated it would be for him. I told him I wouldn't write it off as a loss and he need not worry about it, and that there was a sum of money that he wasn't aware of that his brother-in-law received.

Q Who said that?

A Mr. Tolkow; and that he wanted my assurance that I would not write it off. I gave him my assurance and I further gave him my assurance that I wouldn't bad rap him or do anything to hurt him or his union.

MR. SHANLEY: I have no further questions of this witness.



PAGES FROM G. EX. 2, ANNUAL REPORT (FORM D-2)  
FOR YEAR ENDING DECEMBER 31, 1969, SUBMITTED  
BY THE UNITED WELFARE FUND AMALGAMATED LOCAL  
UNION 355.

SIGNATURE AND VERIFICATION

File No. WP- 37603

Name of Plan UNITED WELFARE FUND

Under 18 U.S.C. Section 1027 each person required to sign this report is personally responsible for the filing of such report and for any statement therein which he knows to be false or for knowingly failing to report facts required by this report to be disclosed.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator in the space provided and the information contained in it (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator before a Notary Public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

INDIVIDUAL SIGNATURE

The undersigned declares under the applicable penalties of law that he is \_\_\_\_\_ of \_\_\_\_\_ (Title)

\_\_\_\_\_, which is the administrator, and he is \_\_\_\_\_ (Employer or employee organization), duly authorized to sign for and on behalf of the administrator and that the information in this report (including the information contained in any accompanying exhibit, schedules and attachments) has been examined by him and is to the best of his knowledge and belief, true, correct, and complete.

Sign here \_\_\_\_\_

GROUP SIGNATURES

The undersigned individuals constituting the administrator of the plan, each for himself declares under the applicable penalties of law that the information in this annual report (including the information contained in any accompanying documents) has been examined by him and is to the best of his knowledge and belief, true, correct, and complete.

Sign here Lawrence J. Cornia Title Treasurer

Sign here Edward J. Keller Title Secy. Treas.

VERIFICATION

State of New York  
County of Queens } ss

Signed and sworn to before me—

This 17 day of June, 1970 (Month)

Shirley Podolsky  
(Notary Public)  
SHIRLEY PODOLSKY  
Notary Public, State of New York  
No. 41-3120700  
Qualified in Queens County

671

Part IV—Section D  
Party-In-Interest Transactions

Name of Plan UNITED STATES FUND

File No. | WP- 32603

This section is to be completed, to the extent applicable, for all plans having any party-in-interest transactions of the types indicated in Tables 1, 2, and 3 hereunder.

The term "party-in-interest" means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan.

Table 1. Investments

1. List here all investments held at year end in bonds or stocks of parties-in-interest, which are not listed or registered as described in footnote 1, and in mortgage loans or other property. (Include identity of each security, mortgage loan or property. Give name of party-in-interest and relationship.) <sup>2</sup>	Cost (2)	Present Value (3)	Percentage of Total Funds (Assets) (4)
(1)	\$	\$	
	NONE		
2. Provide, for the total investments in party-in-interest stocks, and bonds listed and traded or registered, as described in footnote 1 and not requiring identification, information required in columns (2), (3), and (4).	\$	\$	
	NONE		

<sup>1</sup> Any security which is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

<sup>2</sup> If mortgage loans are included in column (1), the identification should also include location and description of property and name of mortgagor.

Table 2. Fees and Commissions

Provide the following information on fees and commissions incidental to the purchase or sale of all investments in securities or properties of parties-in-interest during the reporting year. This information need not be furnished with respect to the securities described in footnote 1.

Name and Address of Recipient (1)	Purpose For Which Paid (Identify securities and properties involved) (2)	Amount (3)
		\$ NONE

<sup>1</sup> Under the Act the identity of all securities and details of brokerage fees and commissions incidental to the purchase and sale of such securities need not be revealed, if the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

Table 3. Loans

Provide the following information for all loans made by the fund to the employer or employee organization or any other party in interest. Information is to be furnished for all such loans other than those made to plan participants where such loans are available to all participants on a nondiscriminatory basis and made in accordance with specific provisions regarding loans to participants set forth in the plan description.

List loans made during year or outstanding at end of year to parties in interest, showing names and addresses of debtors, party-in-interest relationship to fund, dates made and maturity dates, interest rate, and any other terms and conditions of such loans. (1)	Face Amount of Loan (2)	Amount Outstanding at End of Year (3)	Type and Value of Collateral Held (4)
PER SCHEDULE ATTACHED	\$ 101,700	\$ 145,213	

072



**SIGNATURE AND VERIFICATION**

File No. WP- 24600

Name of Plan United Brotherhood of Carpenters and Joiners of America

Under 18 U.S.C. Section 1027 each person required to sign this report is personally responsible for the filing of such report and for any statement therein which he knows to be false or for knowingly failing to report facts required by this report to be disclosed.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator in the space provided and the information contained in it (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator before a Notary Public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

**INDIVIDUAL SIGNATURE**

The undersigned declares under the applicable penalties of law that he is \_\_\_\_\_ of \_\_\_\_\_ (Title)

\_\_\_\_\_, which is the administrator, and he is \_\_\_\_\_ (Employer or employee organization) duly authorized to sign for and on behalf of the administrator and that the information in this report (including the information contained in any accompanying exhibit, schedules and attachments) has been examined by him and is to the best of his knowledge and belief, true, correct, and complete.

Sign here \_\_\_\_\_

**GROUP SIGNATURES**

The undersigned individuals constituting the administrator of the plan, each for himself declares under the applicable penalties of law that the information in this annual report (including the information contained in any accompanying documents) has been examined by him and is to the best of his knowledge and belief, true, correct, and complete.

Sign here Lawrence J. Cronin, Trustee Title \_\_\_\_\_

Sign here Bernard J. Kow, Secy. Treas. Title \_\_\_\_\_

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\_\_\_\_\_

**VERIFICATION**

State of New York } ss  
County of Queens }

Signed and sworn to before me—

This 17 day of June 19 76 (Month)

Shirley Podolsky  
(Notary Public)

673

SHIRLEY PODOLSKY  
Notary Public, State of New York  
No. 41-3120700

74

PAGES FROM G. EX. 3, ANNUAL REPORT (FORM D-2)  
FOR YEAR ENDING DECEMBER 31, 1970, SUBMITTED  
BY THE UNITED WELFARE FUND, AMALGAMATED LOCAL  
UNION 355.

SIGNATURE AND VERIFICATION

File No. WP- 24605

Name of Plan UNITED WELFARE FUND

18 U.S.C. § 1027 provides penalties up to \$10,000 fine or five years imprisonment, or both, for any person who, in any document required by the Act to be published, or kept as part of the records of any covered plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by the Act to be disclosed. In addition, any person who aids, abets, counsels, commands, induces or procures the commission of a violation of 18 U.S.C. § 1027, or who causes the commission of such a violation, is subject to the foregoing penalties even though he intentionally refrained from the direct act constituting a violation of 18 U.S.C. § 1027.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator, in the space provided. Where the administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign the report. The information contained in the report (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator before a notary public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

SIGNATURES

(Please observe instructions for completing this page.)

I/we, the administrator, or \_\_\_\_\_ of \_\_\_\_\_  
(Title or Position)

UNITED WELFARE FUND which is the  
(Employer or Employee Organization, Partnership, Board of Trustees, Committee, etc.)  
administrator who is/are duly authorized to sign for and on behalf of said administrator, declare(s) under the applicable penalties of law that the information in this report (including the information contained in any accompanying schedules and attachments) has been examined by me/us and is to the best of my/our knowledge and belief, true, correct and complete.

SIGN HERE	TYPE OR PRINT NAME HERE	NAME OF COMPANY OR UNION AND POSITION THEREIN
<u>Bernard Tolkan</u>	<u>BERNARD TOLKAN</u>	<u>AMAL. LOCAL UNION 355 TRUSTEE</u>
<u>Lawrence J. Cormier</u>	<u>LAWRENCE J. CORMIER</u>	<u>EBONY OIL CORPORATION</u>

VERIFICATION

State of New York Signed and sworn to before me—  
County of Queens This 26 day of July 19 71  
(Month)  
Shirley Podolsky  
(Notary Public)

074

SHIRLEY PODOLSKY  
Notary Public, State of New York  
No. 41-3120700



Part IV—Section D  
Party-In-Interest Transactions

Name of Plan UNITED WELFARE FUND

File No. WP- 37606

This section is to be completed, to the extent applicable, for all plans having any party-in-interest transactions of the types indicated in Tables 1, 2, and 3 hereunder.

The term "party-in-interest" means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan.

Table 1. Investments

1. List here all investments held at year end in bonds or stocks of parties-in-interest, which are not listed or registered as described in footnote <sup>1</sup> , and in mortgage loans or other property. (Include identity of each security, mortgage loan or property. Give name of party-in-interest and relationship.) <sup>2</sup>	Cost (2)	Present Value (3)	Percentage of Total Funds (Assets) (4)
<u>NONE</u>	\$	\$	<u>NONE</u>
2. Provide, for the total investments in party-in-interest stocks, and bonds listed and traded or registered, as described in footnote <sup>1</sup> and not requiring identification, information required in columns (2), (3), and (4).	\$	\$	

<sup>1</sup> Any security which is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

<sup>2</sup> If mortgage loans are included in column (1), the identification should also include location and description of property and name of mortgagor.

Table 2. Fees and Commissions

Provide the following information on fees and commissions incidental to the purchase or sale of all investments in securities or properties of parties-in-interest during the reporting year. This information need not be furnished with respect to the securities described in footnote<sup>1</sup>.

Name and Address of Recipient (1)	Purpose For Which Paid (Identify securities and properties involved) (2)	Amount (3)
<u>NONE</u>		\$ <u>NONE</u>

<sup>1</sup> Under the Act the identity of all securities and details of brokerage fees and commissions incidental to the purchase and sale of such securities need not be revealed, if the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

Table 3. Loans

Provide the following information for all loans made by the fund to the employer or employee organization or any other party in interest. Information is to be furnished for all such loans other than those made to plan participants where such loans are available to all participants on a nondiscriminatory basis and made in accordance with specific provisions regarding loans to participants set forth in the plan description.

List loans made during year or outstanding at end of year to parties in interest, showing names and addresses of debtors, party-in-interest relationship to fund, dates made and maturity dates, interest rate, and any other terms and conditions of such loans. (1)	Face Amount of Loan (2)	Amount Outstanding at End of Year (3)	Type and Value of Collateral Held (4)
<u>PT 2 SCHEDULE</u>	\$ <u>450,000</u>	\$ <u>447,007</u>	\$ <u>PT 2 SCHEDULE</u>

## SIGNATURE AND VERIFICATION

File No. WP- 24602

Name of Plan UNITED WELFARE FUND

18 U.S.C. § 1027 provides penalties up to \$10,000 fine or five years imprisonment, or both, for any person who, in any document required by the Act to be published, or kept as part of the records of any covered plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by the Act to be disclosed. In addition, any person who aids, abets, counsels, commands, induces or procures the commission of a violation of 18 U.S.C. § 1027, or who causes the commission of such a violation, is subject to the foregoing penalties even though he intentionally refrained from the direct act constituting a violation of 18 U.S.C. § 1027.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator, in the space provided. Where the administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign the report. The information contained in the report (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator before a notary public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

## SIGNATURES

(Please observe instructions for completing this page.)

I/we, the administrator, or \_\_\_\_\_ of \_\_\_\_\_  
(Title or Position)

UNITED WELFARE FUND

which is the

(Employer or Employee Organization, Partnership, Board of Trustees, Committee, etc.)

administrator who is/are duly authorized to sign for and on behalf of said administrator, declare(s) under the applicable penalties of law that the information in this report (including the information contained in any accompanying schedules and attachments) has been examined by me/us and is to the best of my/our knowledge and belief, true, correct and complete.

SIGN HERE	TYPE OR PRINT NAME HERE	NAME OF COMPANY OR UNION AND POSITION THEREIN
<i>Bernard Tolkow</i>	BERNARD TOLKOW	AMER. LOAN UNION DIST. TRUST
<i>Louise J. Corrier</i>	LOUISE J. CORRIER	ETBONY OIL CORPORATION

## VERIFICATION

State of New York

Signed and sworn to before me—

County of Jews

ss.

This

25

day of

July1971

(Month)

*Shirley Posolsky*

(Notary Public)

SHIRLEY POSOLSKY

Notary Public, State of New York  
No. 41-3120700

076



PAGES FROM G. EX. 4, ANNUAL REPORT (FORM D-2)  
FOR YEAR ENDING APRIL 30, 1971, SUBMITTED BY  
THE UNITED WELFARE FUND, AMALGAMATED LOCAL  
UNION 355.

U.S. DEPARTMENT OF LABOR

SIGNATURE AND VERIFICATION

File No. WP- 32606

Name of Plan UNITED WELFARE FUND

18 U.S.C. § 1027 provides penalties up to \$10,000 fine or five years imprisonment, or both, for any person who, in any document required by the Act to be published, or kept as part of the records of any covered plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by the Act to be disclosed. In addition, any person who aids, abets, counsels, commands, induces or procures the commission of a violation of 18 U.S.C. § 1027, or who causes the commission of such a violation, is subject to the foregoing penalties even though he intentionally refrained from the direct act constituting a violation of 18 U.S.C. § 1027.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator, in the space provided. Where the administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign the report. The information contained in the report (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator before a notary public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

SIGNATURES

(Please observe instructions for completing this page.)

I/we, the administrator, or \_\_\_\_\_ of \_\_\_\_\_  
(Title or Position)

UNITED WELFARE FUND which is the  
(Employer or Employee Organization, Partnership, Board of Trustees, Committee, etc.)  
administrator who is/are duly authorized to sign for and on behalf of said administrator, declare(s) under the applicable penalties of law that the information in this report (including the information contained in any accompanying schedules and attachments) has been examined by me/us and is to the best of my/our knowledge and belief, true, correct and complete.

SIGN HERE	TYPE OR PRINT NAME HERE	NAME OF COMPANY OR UNION AND POSITION THEREIN
<u>Lawrence J. Cornier</u>	<u>Lawrence J. Cornier</u>	<u>President</u>
<u>Bernard Telkew</u>	<u>Bernard Telkew</u>	<u>Sec-Treas</u>

VERIFICATION

State of New York

Signed and sworn to before me—

County of Queens

ss

This 18 day of October 1971  
(Month)

(Notary Public)

SHIRLEY PODOLSKY  
Notary Public, State of New York

077

Part IV—Section D  
Party-In-Interest Transactions

Name of Plan UNITED WELFARE FUND

File No. WP-2V606

This section is to be completed, to the extent applicable, for all plans having any party-in-interest transactions of the types indicated in Tables 1, 2, and 3 hereunder.

The term "party-in-interest" means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan.

Table 1. Investments

1. List here all investments held at year end in bonds or stocks of parties-in-interest, which are not listed or registered as described in footnote <sup>1</sup> , and in mortgage loans or other property. (Include identity of each security, mortgage loan or property. Give name of party-in-interest and relationship.) <sup>2</sup>	Cost (2)	Present Value (3)	Percentage of Total Funds (Assets) (4)
(1)	\$  NONE	\$  	
2. Provide, for the total investments in party-in-interest stocks, and bonds listed and traded or registered, as described in footnote <sup>1</sup> and not requiring identification, information required in columns (2), (3), and (4).	\$  NONE	\$  	

<sup>1</sup> Any security which is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

<sup>2</sup> If mortgage loans are included in column (1), the identification should also include location and description of property and name of mortgagor.

Table 2. Fees and Commissions

Provide the following information on fees and commissions incidental to the purchase or sale of all investments in securities or properties of parties-in-interest during the reporting year. This information need not be furnished with respect to the securities described in footnote<sup>1</sup>.

Name and Address of Recipient (1)	Purpose For Which Paid (Identify securities and properties involved) (2)	Amount (3)
		\$ NONE

<sup>1</sup> Under the Act the identity of all securities and details of brokerage fees and commissions incidental to the purchase and sale of such securities need not be revealed, if the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

Table 3. Loans

Provide the following information for all loans made by the fund to the employer or employee organization or any other party in interest. Information is to be furnished for all such loans other than those made to plan participants where such loans are available to all participants on a nondiscriminatory basis and made in accordance with specific provisions regarding loans to participants set forth in the plan description.

List loans made during year or outstanding at end of year to parties in interest, showing names and addresses of debtors, party-in-interest relationship to fund, dates made and maturity dates, interest rate, and any other terms and conditions of such loans. (1)	Face Amount of Loan (2)	Amount Outstanding at End of Year (3)	Type and Value of Collateral Held (4)
PER SCHEDULE	\$ 743,250	\$ 678,671	
		678,671	

078



## SIGNATURE AND VERIFICATION

File No. WP- 24666

Name of Plan UNITED WORKERS FUND

18 U.S.C. § 1027 provides penalties up to \$10,000 fine or five years imprisonment, or both, for any person who, in any document required by the Act to be published, or kept as part of the records of any covered plan, or certified to the administrator of any such plan, makes any statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by the Act to be disclosed. In addition, any person who aids, abets, counsels, commands, induces or procures the commission of a violation of 18 U.S.C. § 1027, or who causes the commission of such a violation, is subject to the foregoing penalties even though he intentionally refrains from the direct act constituting a violation of 18 U.S.C. § 1027.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator, in the space provided. Where the administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign the report. The information contained in the report (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator before a notary public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

## SIGNATURES

(Please observe instructions for completing this page.)

I/we, the administrator, or \_\_\_\_\_ of \_\_\_\_\_  
(Title or Position)

UNITED WORKERS FUND which is the  
(Employer or Employee Organization, Partnership, Board of Trustees, Committee, etc.)  
administrator who is/are duly authorized to sign for and on behalf of said administrator, declare(s) under the applicable penalties of law that the information in this report (including the information contained in any accompanying schedules and attachments) has been examined by me/us and is to the best of my/our knowledge and belief, true, correct and complete.

SIGN HERE	TYPE OR PRINT NAME HERE	NAME OF COMPANY OR UNION AND POSITION THEREIN
Lawrence J. Cornia	Lawrence J. Cornia	President
Bernard Telkav	Bernard Telkav	Sec. Treas.

## VERIFICATION

State of NEW YORK

Signed and sworn to before me—

County of QUEENS

This 18 day of October, 1977

079

SHIRLEY PODOLSKY  
(Notary Public)  
Notary Public, State of New York  
No. 41-3120700 - Queens County

PAGES FROM G. EX. 5, ANNUAL REPORT (FORM D-2)  
FOR YEAR ENDING APRIL 30, 1972, SUBMITTED BY  
THE UNITED WELFARE FUND, AMALGAMATED LOCAL  
UNION 355.

File No. WP-021,452

Name of Plan UNITED WELFARE FUND

18 U.S.C. § 1027 provides penalties up to \$10,000 fine or five years imprisonment, or both, for any person who, in any document required by the Act to be published, or kept as part of the records of any covered plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by the Act to be disclosed. In addition, any person who aids, abets, counsels, commands, induces or procures the commission of a violation of 18 U.S.C. § 1027, or who causes the commission of such a violation, is subject to the foregoing penalties even though he intentionally refrained from the direct act constituting a violation of 18 U.S.C. § 1027.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator, in the space provided. Where the administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign the report. The information contained in the report (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator before a notary public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☒ Certification described in (2) above is attached.

SIGNATURES

(Please observe instructions for completing this page.)

I/we, the administrator, or \_\_\_\_\_ of \_\_\_\_\_

UNITED WELFARE FUND

(Employer or Employee Organization, Partnership, Board of Trustees, Committee, etc.) which is the administrator who is/are duly authorized to sign for and on behalf of said administrator, declare(s) under the applicable penalties of law that the information in this report (including the information contained in any accompanying schedules and attachments) has been examined by me/us and is to the best of my/our knowledge and belief, true, correct and complete.

SIGN HERE	TYPE OR PRINT NAME HERE	NAME OF COMPANY OR UNION AND POSITION THEREIN
<i>Bernard Tolkow</i>	<i>Bernard Tolkow</i>	<i>Local 355 - Bus Mgr</i>
<i>Laurence J. Cormier</i>	<i>Laurence J. Cormier</i>	<i>Flony A / Cap. Pres - Union</i>

VERIFICATION

State of New York Signed and sworn to before me—  
County of Queens ss, This 15 day of January, 19 73  
*Shirley Podolsky*  
(Notary Public)

080

SHIRLEY PODOLSKY  
Notary Public, State of New York  
No. 41-3120700 - Queens County  
Term Expires March 30, 1973



Part IV—Section D  
Party-In-Interest Transactions

Name of Plan UNITED WELFARE FUND

File No. WP-007606

This section is to be completed, to the extent applicable, for all plans having any party-in-interest transactions of the types indicated in Tables 1, 2, and 3 hereunder.

The term "party in interest" means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan.

Table 1. Investments

1. List here all investments held at year end in bonds or stocks of parties-in-interest, which are not listed or registered as described in footnote <sup>1</sup> , and in mortgage loans or other property. (Include identity of each security, mortgage loan or property. Give name of party-in-interest and relationship.) <sup>2</sup>	Cost (2)	Present Value (3)	Percentage of Total Funds (Assets) (4)
	\$	\$	
	NONE		
2. Provide, for the total investments in party-in-interest stocks, and bonds listed and traded or registered, as described in footnote <sup>1</sup> and not requiring identification, information required in columns (2), (3), and (4).	\$	\$	
	NONE		

<sup>1</sup> Any security which is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

<sup>2</sup> If mortgage loans are included in column (1), the identification should also include location and description of property and name of mortgagor.

Table 2. Fees and Commissions

Provide the following information on fees and commissions incidental to the purchase or sale of all investments in securities or properties of parties-in-interest during the reporting year. This information need not be furnished with respect to the securities described in footnote<sup>1</sup>.

Name and Address of Recipient (1)	Purpose For Which Paid (Identify securities and properties involved) (2)	Amount (3)
		\$ NONE

<sup>1</sup> Under the Act the identity of all securities and details of brokerage fees and commissions incidental to the purchase and sale of such securities need not be revealed, if the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or is a security in an investment company registered under the Investment Company Act of 1940, or is a security of a public utility holding company registered under the Public Utility Holding Company Act of 1935.

Table 3. Loans

Provide the following information for all loans made by the fund to the employer or employee organization or any other party in interest. Information is to be furnished for all such loans other than those made to plan participants where such loans are available to all participants on a nondiscriminatory basis and made in accordance with specific provisions regarding loans to participants set forth in the plan description.

List loans made during year or outstanding at end of year to parties in interest, showing names and addresses of debtors, party-in-interest relationship to fund, dates made and maturity dates, interest rate, and any other terms and conditions of such loans. (1)	Face Amount of Loan (2)	Amount Outstanding at End of Year (3)	Type and Value of Collateral Held (4)
PER SCHEDULE	\$	\$	\$

081

## SIGNATURE AND VERIFICATION

File No. WP-037601

Name of Plan UNITED WELFARE FUND

18 U.S.C. § 1027 provides penalties up to \$10,000 fine or five years imprisonment, or both, for any person who, in any document required by the Act to be published, or kept as part of the records of any covered plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by the Act to be disclosed. In addition, any person who aids, abets, counsels, commands, induces or procures the commission of a violation of 18 U.S.C. § 1027, or who causes the commission of such a violation, is subject to the foregoing penalties even though he intentionally refrained from the direct act constituting a violation of 18 U.S.C. § 1027.

Records providing in sufficient detail the necessary basic information and data from which the report and other documents filed may be verified, explained or clarified, and checked for accuracy and completeness must be maintained and kept available for examination for at least five years after the date of filing the report. These records include vouchers, worksheets, receipts, and applicable resolutions.

This report shall be signed by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator, in the space provided. Where the administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign the report. The information contained in the report (including sections, schedules, and other documents attached) shall either be (1) sworn to by the administrator or individual(s) duly authorized to sign for and on behalf of the administrator before a notary public or other officer authorized to administer oaths, or (2) certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing. If method (2) is used attach the accountant's certificate, which shall state facts indicating that the above requirements are met, and check this box:

☐ Certification described in (2) above is attached.

## SIGNATURES

(Please observe instructions for completing this page.)

I/we, the administrator, or \_\_\_\_\_ of \_\_\_\_\_ (Title or Position)

UNITED WELFARE FUND which is the \_\_\_\_\_ (Employer or Employee Organization, Partnership, Board of Trustees, Committee, etc.) administrator who is/are duly authorized to sign for and on behalf of said administrator, declare(s) under the applicable penalties of law that the information in this report (including the information contained in any accompanying schedules and attachments) has been examined by me/us and is to the best of my/our knowledge and belief, true, correct and complete.

SIGN HERE	TYPE OR PRINT NAME HERE	NAME OF COMPANY OR UNION AND POSITION THEREIN
<i>Bernard Telkew</i>	Bernard Telkew	Local 355 - Business Mgr.
<i>Lawrence J. Cornier</i>	Lawrence J. Cornier	Phony A/R Rep. Pres. time

## VERIFICATION

State of New York  
County of Queens

Signed and sworn to before me—

This 15 day of January, 19 73  
(Month)

092

*Shirley Podolsky*  
SHIRLEY PODOLSKY  
Notary Public, State of New York  
No. 41-3126700 - Queens County  
Term Expires March 20, 1974



CERTIFICATE OF SERVICE

Copies of the foregoing Appendix of Appellee have been  
served on counsel for appellant at the following address:

Charles S. Desmond  
15 Court Street  
Buffalo, New York 14202

Lauren S. Kahn  
LAUREN S. KAHN, Attorney

Dated: October 14, 1975

